



**#3574**

**Sponsor: Council Member Freel**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BONDS (SEU PROJECT), SERIES OF 2011, IN ORDER TO PROVIDE THE FUNDS NECESSARY FOR A WATER EFFICIENCY PROJECT; AUTHORIZING AN AGREEMENT WITH THE DELAWARE SUSTAINABLE ENERGY UTILITY, INC. ("SEU"); PROVIDING FOR THE SALE OF THE BONDS TO THE SEU; AND AUTHORIZING OTHER NECESSARY ACTION**

**WHEREAS**, the City of Wilmington (the "City") has determined to undertake various capital projects of the City including the construction of improvements and the purchase of equipment for an energy efficiency project involving the automation of two pump stations in the City's water system and designated as "Pumping Station Improvements" in the City's capital budget for its Fiscal Year 2012 (the "Project"); and

**WHEREAS**, in order to provide financing for the Project, the City has determined to issue a series of General Obligation Bonds (SEU Project), Series of 2011 (the "Bond") in a principal amount not to exceed \$2,000,000; and

**WHEREAS**, the City has heretofore adopted the General Obligation Bond Ordinance, No. 83-019, on February 24, 1983 (the "General Ordinance"), authorizing the City to issue General Obligation Bonds or Notes secured by a pledge of the City's full faith, credit and taxing power, for the purpose of, among other things, paying the costs of capital projects; and

**WHEREAS**, this Ordinance is a Supplemental Ordinance adopted pursuant to the General Ordinance and provides for the issuance and sale of the Bonds.

**THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

Section 1. Defined Terms. Terms used in this Ordinance and not otherwise defined shall have the meaning specified in the General Ordinance.

Section 2. Useful Life of the Project. The City hereby determines that the average useful life of the Project is not less than five (5) years nor more than thirty (30) years.

Section 3. Authorization of General Obligation Bond (SEU Project), Series of 2011. The City hereby authorizes the issuance of its General Obligation Bond (SEU Project), Series of 2011 in a principal amount not to exceed \$2,000,000 (the “Bond”) for the purpose of providing permanent financing for the Project. The Bond shall be issued pursuant to and in accordance with the General Ordinance, as supplemented by this Ordinance and the Bond Committee Resolution (as defined herein). The Bond shall be sold at private negotiated sale to the Delaware Sustainable Energy Utility, Inc. (the “SEU”) as determined by such Resolution of the Bond Committee.

The Bond shall be awarded and sold by the Bond Committee to the SEU at a purchase price and in accordance with such terms and conditions as will be set forth in an agreement to be entered into by the SEU and the City (the “Agreement”). The appropriate officials of the City are hereby authorized to enter into such Agreement and to execute the Agreement on behalf of the City.

The Bond shall bear such rate or rates of interest (not to exceed 1.99%), shall mature in such principal amount or amounts and on such date or dates (not to exceed 12 years from the date of issuance), shall be subject or not subject to redemption, shall be sold at such price and in such manner, and shall be in such form and contain or be subject to such other terms and conditions, as shall be determined in a Resolution adopted by the Bond Committee (a “Bond Committee Resolution”).

Section 4. Execution of the Bond. The Bond shall be executed by the manual or facsimile signatures of the Mayor, the City Treasurer and the City Auditor, and by the actual or facsimile impression of the City seal, both attested by the manual or facsimile signatures of the City Clerk or Deputy City Clerk.

Section 5. Security for the Bond. The full faith, credit and taxing power of the City is hereby pledged to the prompt payment of the principal of, premium, if any, and the interest on the Bond. The Bond shall be the direct and unlimited obligations of the City, and unless paid from other sources, the City shall levy *ad valorem* taxes upon all taxable property in the City for the payment of the Bond without limitation as to rate or amount.

Section 6. Further Action. The appropriate officers of the City are hereby authorized and directed to take all such action, execute, deliver, file and record all such documents and agreements, publish all notices and otherwise carry out the intent of the General Ordinance and this Ordinance in the name of and on behalf of the City.

Section 7. Inconsistent Provisions. In the event that any provision of the Bond, or any term or condition contained in the agreement relating to the Bond, shall be

inconsistent with any of the provisions of the General Ordinance, the provision of the Bond and such agreement shall be controlling with respect to the Bond and such agreement.

Section 8. Relation to General Ordinance. This Ordinance is supplemental to the General Ordinance and all sections of the General Ordinance, except as modified herein in accordance therewith, are applicable to the Bond authorized hereunder. This Ordinance shall take effect immediately upon its passage.

Section 9. Effective Date. This Ordinance shall become effective upon its passage by Council and approval of the Mayor.

First Reading .....September 15, 2011  
Second Reading .....September 15, 2011  
Third Reading .....

Passed by City Council,

\_\_\_\_\_  
President of City Council

ATTEST: \_\_\_\_\_  
City Clerk

Approved as to form this \_\_\_\_  
day of September, 2011

\_\_\_\_\_  
City Solicitor

Approved this \_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
Mayor

**SYNOPSIS:** This Ordinance authorizes the issuance of up to a \$2,000,000 principal amount General Obligation Bond (SEU Project), Series of 2011, in order to provide financing, for an energy efficiency project consisting of the installation of improvements and equipment for the automation of two pump stations in the City's water system and designated as "Pumping Station Improvements" in the capital budget for the City's Fiscal Year 2012.